



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC

Docket No: 02065-99

23 March 2000

YNC [REDACTED] USNFR
[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 24 August, 30 September and 15 November 1999 and 19 January 2000, and a memorandum for the record dated 17 March 2000, copies of which are attached. They also considered your letter dated 14 February 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions.

The Board did not find the comments and "5.0" marks in "Leadership" to be inconsistent with the "3.0" marks in "Teamwork." They were unable to find you did not receive adequate counseling about your performance, noting the "3.0" marks in "Teamwork" are not adverse marks requiring express justification in the fitness report. Finally, they were unable to find your promotion recommendation was downgraded because you had a prospective retirement. In this regard, they noted that both contested reports marked you "Must Promote [second best recommendation]", rather than "Promotable [third best]," as your letter of 14 February 2000 indicated you had been marked.

Since the Board found insufficient basis to remove the contested fitness reports, they concluded your consideration by a special selection board would not be warranted. Further, they found your contested fitness report for 16 September 1996 to 15 September 1977 was not due when the Fiscal Year (FY) 98 Selection Board met, and this report was not placed in your digitized record until 9 June 1999, after your consideration by the FY 99 Selection Board. Recognizing the possibility that the FY 99 Selection Board did solicit and obtain this report without your rebuttal dated 23 September 1997, the Board found that in this circumstance, the absence of the rebuttal would not have appreciably harmed your chances for selection.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

2065-99

1610
PERS-311
24 AUG 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: YNC(AW) [REDACTED] USN, [REDACTED]

Ref: (a) BUPERSINST 1610.10

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of her performance reports for the periods 16 September 1996 to 15 September 1997 and 19 August 1995 to 15 September 1996.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed both reports to be on file. The member signed the reports indicating her desire to submit a statement. The statement to the report for the period of 19 August 1995 to 15 September 1996 is on file. The statement to the report for the period 16 September 1996 to 15 September 1997 has been received by PERS-311, and is in the process of being placed in the member's digitized record.

b. The member feels that she was not afforded a fair chance at promotion due to receiving two improper fitness reports. The member also feels that the "3.0" trait mark in "Teamwork" for the report ending 15 September 1996 was assigned as an adverse mark.

c. Based on our review of the member's record, we can not determine why the member feels the reports in question are improper, and why she feels that the "3.0" trait mark in "Teamwork" was used as an adverse mark. Both reports were prepared per the guidelines outlined in reference (a), and are valid reports. We feel that the member's allegations are without merit.

d. The report represents the judgment and appraisal authority of the reporting senior for a specific period of time. It is not required to be consistent with previous or subsequent reports.

Subj: YNC (A [REDACTED] EN, USN, [REDACTED])

e. The member does not prove the report to be unjust or in error.

3. We recommend the member's petition be forwarded to the Director, Equal Opportunity Branch, PERS-61 for comment concerning the member's allegation of racial discrimination and unfair treatment.

4. We recommend retention of the reports as written.

[REDACTED]
Head, Performance
Evaluation Branch



DEPARTMENT OF THE NAVY

**NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**

1430
Ser 852/312
30 Sep 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL
RECORDS

Via: Assistant for BCNR Matter (PERS-00XCB)

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF
YNC (██████████) USN ██████████

Ref: (a) BUPERSINST 1401.2

Encl: (1) Docket #02065-99

1. Enclosure (1) is returned recommending disapproval.
2. As indicated in reference (a), enlisted special selection boards are convened to provide an equitable opportunity for members which the regular board failed to properly consider for advancement. A thorough review of YNC [REDACTED]'s case reveals that her record was properly considered by the FY-00 Senior and Master Chief Petty Officer Selection Board. Selection boards are advised to consider each eligible candidate carefully, without prejudice or partiality. Although actual selection board proceedings cannot be disclosed, the basic criteria used for selection continues to be sustained superior performance in challenging assignments. Therefore, no relief recommended in this case. [REDACTED]



2065 99

DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-61/142
15 Nov 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-00ZCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF
YNC(AW, [REDACTED], USN [REDACTED])

Ref: (a) PERS-00ZCB memo 5420 of 5 Nov 99
(b) OPNAVINST 5354.1D Navy EO Manual

Encl: (1) BCNR File 02065-99

1. Reference (a) requested an advisory opinion in response to Chief [REDACTED] request to remove two fitness reports for the periods 19 August 1995 to 15 September 1996 and 16 September 1996 to 15 September 1997. Enclosure (1) is returned.

2. Chief [REDACTED] alleges the two fitness reports are improper and unfairly represent her at selection boards and that is why she has not been selected for senior chief. She feels that the marks of 3.0 in Teamwork are unjust. However, Chief [REDACTED] was marked with a Must Promote for selection to senior chief in both reports. She filed an Article 138 complaint in response to the report of 16 September 1996 to 15 September 1997.

3. Chief [REDACTED] was also marked with a 3.0 in Teamwork as well as Equal Opportunity in the report for the period 19 August 1995 to 15 September 1996; however, it was signed by the previous commanding officer. She was also marked with a Must Promote for selection to senior chief.

4. Commander, Naval Forces Japan, conducted an investigation in response to the Article 138 complaint and found that Chief [REDACTED] s mark of 3.0 in Teamwork was below the command average. Deputy Assistant Secretary of the Navy (M&RA) (PP) concluded that although certain aspects of her complaint were of concern, Commander, U.S. Naval Air Facility, Misawa, Japan, did not abuse discretionary power in assigning the marks on her fitness report.

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF
YNC(AW) [REDACTED], USN, [REDACTED]

5. From the information provided, the 3.0 mark in Teamwork appears to be inconsistent with the other marks on the reports. She also received a 3.0 in Teamwork on her departing fitness report. However, the marks are the opinion of the commanding officer and are not contrary to reference (b). It is my opinion that she does not prove her case of unfairness. I recommend the reports remain in her record.

6. Chief [REDACTED] requested that Special Assistant for Minority Affairs (N1J) also look at this BCNR request and provide an opinion/recommendation.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Commander, USN
Director, Professional
Relationships Division
(PERS-61)



DEPARTMENT OF THE NAVY
CHIEF OF NAVAL PERSONNEL
WASHINGTON, D.C. 20370-5000

2065-99

IN REPLY REFER TO
19 January 2000

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION ICO YNC (AW) [REDACTED] USN [REDACTED]

Ref: (a) PERS-00ZB memo of 24 AUG 99
(b) PERS-61/142 ltr of 15 NOV 99

Encl: (1) BNCR PETITION ICO YNC [REDACTED] USN,
[REDACTED]

1. Reference (a) requested P00J to provide an advisory opinion in response to [REDACTED]'s BCNR request to have two fitness reports removed for the periods of 19 August 1995 - 15 September 1996 and 16 September 1996 - 15 September 1997.

2. After a thorough review of enclosure (1), PERS-00J concurs with the comments and recommendations provided in reference (b).

[REDACTED]
Commander, U.S. Navy
Special Assistant for Minority
Affairs (Pers-00J)

17 March 2000

MEMORANDUM FOR THE RECORD

Re: Case of YNC [REDACTED] USNFR, docket no 2065-99

Senior Chief [REDACTED] advises YNC Wilken was considered by the FY 98 (Mar 97) and FY 99 (Apr 98) E-8 Selection Boards; and that she was not considered by the FY 00 (Mar 99) E-8 Selection Board, because she was pending transfer to the Fleet Reserve.

[REDACTED]
[REDACTED]
Head, Performance Section